

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7139 CS PCB HCG 06-01 Emergency Management
SPONSOR(S): Health Care General Committee; Harrell
TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/CS/CS/SB 1058

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Health Care General Committee	10 Y, 0 N	Ciccone	Brown-Barrios
1) Health Care Appropriations Committee	13 Y, 0 N, w/CS	Massengale	Massengale
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

House Bill 7139 CS amends various sections of Florida Statutes relating to the planning and operation of special needs emergency shelters in Florida. Specifically, the bill addresses emergency planning and management to enhance the safety and well-being of persons with special needs before, during and after a disaster. The bill assigns lead responsibility regarding special needs shelter maintenance and operation to certain state agencies, establishes the multi-agency special needs shelter discharge planning team and encourages coordination of emergency services among national, state and local agencies and volunteer organizations.

The bill assigns lead agency education, communication and outreach responsibilities to the Department of Community Affairs, expands special needs registration efforts, revises the membership and role of the Special Needs Interagency Committee and amplifies the Department of Health's role in establishing a more coordinated comprehensive emergency plan review of certain facilities and providers with the Department of Elder Affairs and the Agency for Health Care Administration.

The bill provides procedures to address the needs of families of special needs shelter residents, provides facility and provider reimbursement when rendering services during a disaster, authorizes certain facilities to exceed their licensed capacity during an evacuation situation, and requires the Agency for Health Care Administration to monitor and assist nursing homes during a disaster and to publish an emergency phone number for nursing requesting assistance.

The bill makes the reimbursement to health care practitioners and facilities subject to the availability of both state and federal funds. The bill also provides appropriations for permanent emergency power for special needs shelters based on a competitive award process (\$21.5 million federal funds, which requires 25 percent local participation), retrofitting public hurricane evacuation shelters based on a competitive award process (\$9 million federal funds), and 20 positions and \$1,000,955 from the General Revenue Fund to the Department of Health for emergency management plan reviews of home health agencies and nurse registry, hospice and home medical equipment providers.

The bill provides for an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government—The bill adds responsibilities to the Department of Health's role in establishing a more coordinated comprehensive emergency plan review of certain facilities and providers with the Department of Elder Affairs and the Agency for Health Care Administration.

Promote Personal Responsibility and Empower Families—Providing time and appropriate pre- and post-disaster information and improving the availability of services should enable the state's residents to make choices that will enhance the safety and well-being of themselves and their families.

B. EFFECT OF PROPOSED CHANGES:

Proposed Changes

The bill amends certain sections of chapter 252, F. S., and other chapters addressing pre- and post-disaster planning to address services to persons with special needs before, during and after disasters. The bill assigns lead responsibility for certain functions to specific state agencies and establishes a multi-agency emergency special needs shelter discharge planning team to assist local areas impacted by natural or manmade disasters that require the use of special needs shelters. The bill also provides certain pre- and post disaster facility use and licensure flexibility. The effect of these provisions should be to provide increased coordination among federal, state and local entities and to facilitate the timely and appropriate use of facilities to serve the special needs population.

The bill provides the following:

- Includes individuals with cognitive impairments among persons considered to have special needs.
- Expands the communication and outreach efforts regarding special needs registration.
- Requires year-round maintenance of the special needs registry.
- Provides local law enforcement agencies with access to shelter registration information.
- Designates the Department of Community Affairs as the lead agency responsible for community education and outreach and requires the department to coordinate with certain other entities in those efforts.
- Provides that a special needs shelter is considered a public facility when activated for a disaster and as such must allow people with disabilities to bring their service animals into the facility.
- Authorizes the Department of Agriculture and Consumer Services to serve as the lead agency responsible for pet and animal sheltering during a disaster.
- Designates Children's Medical Services as the lead agency for coordinating local medical and health care providers for the staffing and management of pediatric special needs shelters.
- Authorizes the Agency for Health Care Administration to monitor nursing homes during emergencies to determine if assistance is needed and that the agency publishes an emergency telephone number for nursing homes to use.
- Specifies that the Division of Emergency Management include special needs shelter assessment, location, estimated need, and other information in its statewide emergency shelter plan.
- Requires the Department of Health to assist the Division of Emergency Management in determining the estimated need for special needs shelter space and the adequacy of the facility to meet the needs of those seeking shelter.
- Requires the Division of Emergency Management to include information regarding the availability of pet friendly shelters in the statewide emergency shelter plan.
- Requires the local emergency management agency to inspect a facility to determine its readiness prior to activating such facility.

- Assigns the county health departments, in conjunction with the local emergency management agencies, the lead responsibility to coordinate and recruit health care practitioners to staff local special needs shelters, and encourages coordination of non-medical staffing and operating of special needs shelters.
- Requires local emergency management agencies to be responsible for the designation and operation and closure of facilities and that these services and activities are coordinated with county health departments.
- Establishes state employee roles under certain circumstances in a disaster response.
- Establishes a multi-agency emergency special needs shelter discharge planning team.
- Directs the Department of Elder Affairs to convene the multi-agency special needs shelter discharge planning team as necessary to assist local areas impacted by emergency or disaster.
- Allows certain practitioners, hospitals, nursing homes or receiving facilities to request reimbursement for sheltering persons with special needs.
- Provides protections against duplication of reimbursements to receiving facilities.
- Revises the duties and membership of the Special Needs Shelter Interagency Committee and expands the committee to include the Florida Association of Aging Services Providers, the Florida Renal Coalition and AARP.
- Requires the Department of Health to adopt rules.
- Authorizes the Department of Health to solicit pre-planning event participation.
- Requires emergency management plans to address home health agency, nurse registry, hospice, and home medical equipment provider's functional staffing plan for shelters to ensure continuity of care and services for clients.
- Provides that home health agencies, nurse registries, hospice and home medical equipment providers include a continuity of care component in their respective comprehensive emergency management plans, encourages these entities to establish links to emergency operations centers to determine a mechanism to approach disaster areas to reach clients, provides for a more coordinated review of such plans by the county health departments and allows sanctioning capability by the Agency for Health Care Administration under certain circumstances.
- Provides licensure and use flexibility to allow nursing homes, assisted living facilities, and other residential care facilities to exceed their licensed bed capacity to act as a receiving facility in accordance with emergency operations plans.
- The bill makes the reimbursement to health care practitioners and facilities subject to the availability of both state and federal funds. The bill also provides appropriations for permanent emergency power for special needs shelters based on a competitive award (\$21.5 million federal funds, which requires 25 percent local participation), retrofitting public hurricane evacuation shelters based on a competitive award (\$9 million federal funds), and 20 positions and \$1,000,995 from the General Revenue Fund to the Department of Health for emergency management plan reviews of home health agencies and nurse registry, hospice and home medical equipment providers.

Current Situation

Florida's geographical location makes this state vulnerable to a variety of natural disasters. Various state agencies coordinate with local and federal governments, interstate organizations, and the private sector to prepare residents and visitors before disasters to help protect them during such events and assist with recovery afterward.

Florida's regulatory guidelines regarding disaster response are outlined in several documents. Chapter 252, F.S., mandates the development of the Florida Comprehensive Emergency Management Plan. The plan establishes the framework to ensure that Florida is prepared to deal with the aftermath of any one of several hazards that threaten our communities, businesses, and the environment. The plan coordinates response and recovery activities with federal, state, local, and volunteer entities and organizations to unify the efforts of these groups to ensure a comprehensive approach to reducing and mitigating the effects of an emergency or disaster.

Additionally, laws relating to health care providers, including ancillary services, provide that certain rules be developed and enforced to establish reasonable and consistent quality of care to persons prior, during and after a disaster.

A significant number of Florida's citizens are considered vulnerable in the event of natural disasters such as hurricanes:

- More than 76 percent of Florida's total population (12,816,041 persons) resides in the 35 coastal counties.
- Eight percent of the state's total population (1,333,969 persons) resides in mobile homes.
- More than 18 percent of the state's total population (3,051,453 persons) is 65 years of age or older, with the highest number in Miami-Dade (314,497), Palm Beach (278,868), Broward (315,470), Pinellas (229,763) and Hillsborough (139,341) counties.¹
- Florida has made significant strides in reducing the deficit of safe hurricane shelter space in the past five years. Approximately 50 percent of the deficit has been eliminated. Between 2004 and 2009, however, the vulnerable population in Florida is projected to increase by nearly 900,000 with as many as 16 percent possibly seeking safety in public shelters.²
- There are 746 nursing homes with 81,986 licensed beds in the state.
- There are an estimated 333,492 citizens that may be considered "frail elderly" (about 2 percent of the Florida's population).

Special needs shelters provide refuge to persons who because of a health or medical condition require the supervision of a health care professional during a disaster or emergency. These shelters operate and coordinate services with state, local agency and volunteer organizations. The Department of Health is the primary agency under the Emergency Support Function-8 operations to maintain and staff special needs shelters.³ On September 1, 2004, the Governor issued Executive Order Number 04-192, authorizing the Department of Health to assume responsibility for special needs shelter operations if specifically requested by any county director of emergency management. This order, incorporated in subsequent hurricane executive orders, was prompted by, "(T)he recognition that the system was overwhelmed and that the department was in the best position, under the circumstances to assume expedient responsibility for SpNs operations..."

The Department of Health, in its 2004 Hurricane Season *AFTER ACTION REPORT*, documents that changing demographics have resulted in increasing numbers of elderly and disabled individuals receiving in-home services. The reports states, "(D)uring these storms, Florida, with its high proportion of elderly, experienced the effects of these combinations of factors like never before. Individuals, who functioned well in their homes during normal times, many with support services from home health care agencies, were unable to maintain that level of functionality during and after the storms. Storm-related disruptions to communications, transportation, power supplies, and lack of continuity of in-home support services as well as structural damage to their homes, forced many seniors out of their independent living status and into SpNS, at least temporarily. In some areas, those who had not evacuated prior to the storm found they could not safely remain in their homes after the storm due to these disruptions resulting in a 'second wave' of evacuees entering special needs shelters."⁴

The department's report underscored a number of issues and lessons learned including:

- County health departments were not always involved with other government entities in selecting SpNS.
- Many eligible persons were not aware of the Special Needs Registry and many of those registered did not actually choose to shelter in SpNS.

¹ *Comprehensive Emergency Management Plan 2004*, February 1, 2004

² *State of Florida 2004 Statewide Emergency Shelter Plan*, February 2004.

³ The Florida House of Representatives, Interim Project Report, Health Care General Committee, November 2005

⁴ Florida Department of Health, 2004 Hurricane Season *AFTER ACTION REPORT*, March 4, 2005.

- Many eligible persons asked to be added to the registry just prior to storm landfall and many registry lists were not updated.
- Better asset assignment was needed, including staff with current specialty skill sets and specialized equipment such as heavy patient lift devices or able-bodied staff, respiratory therapists, oxygen concentrators and other medical support equipment.
- Lack of air conditioning and marginal food and water supplies created stressful shelter conditions.
- More coordinated discharge planning was needed.

Further, during the 2005 hurricane season, additional analysis revealed that physically impaired individuals who decided to shelter at home in multi-story buildings became “trapped” when elevators were rendered inoperable due to power outages. These individuals represent a substantial group that may also seek SpNS services in the future.

C. SECTION DIRECTORY:

Section 1. Amends s. 252.355, F.S., regarding public shelter space and special needs registration.

Section 2. Creates s. 252.3568, F.S., regarding emergency pet sheltering.

Section 3. Creates s. 252.357, F.S., regarding monitoring of nursing homes during a disaster.

Section 4. Amends s. 252.385, F.S., regarding public shelter space, statewide shelter survey and need information included in the statewide emergency shelter plan, space allocation within a shelter, shelter location, adequacy of facilities, pet friendly shelters, inspection, shelter readiness and coordination of shelter services.

Section 5. Amends s. 381.0303, F.S., regarding operation, maintenance and closure of special needs shelters; assignment and coordination of local and state agency lead responsibilities; coordination of medical and non-medical staffing in special needs shelters; designation, operation and infrastructure of special needs shelters; state employees’ disaster response roles; the Department of Elder Affairs’ convening of the multi-agency special needs shelter discharge planning team; health care practitioner and other emergency personnel reimbursement; hospitals, nursing and other facilities reimbursement for disaster-incurred expenses; special needs shelter interagency committee membership and responsibilities; the Department of Health’s rule-making authority; pre-event planning activities, and home health agency, nurse registry, hospice and home medical equipment provider emergency management plan review.

Section 6. Amends, s. 400.492, F.S., regarding home health agencies and the provision of services during an emergency; provides that home health agencies may establish links to local emergency operations centers and provides sanctioning ability by the Agency for Health Care Administration.

Section 7. Amends s. 400.497, F.S., regarding rules establishing minimum standards; establishes county health department procedures regarding the review of home health agencies comprehensive emergency plans, provides for notification of plan approval or deficiency, and provides that the Agency for Health Care Administration may impose a fine under certain circumstances.

Section 8. Amends s. 400.506, F.S., regarding nurse registries and the provision of services during an emergency; provides that nurse registries may establish links to local emergency operations centers; establishes county health department procedures regarding review of nurse registries comprehensive emergency plans, provides for notification of plan approval or deficiency; and provides that the Agency for Health Care Administration may impose a fine under certain circumstances.

Section 9. Amends s. 400.610, F.S., regarding hospice facilities and the provision of services during an emergency; provides that hospice facilities may establish links to local emergency operations centers; establishes county health department procedures regarding the review of hospice facilities comprehensive emergency plans; provides for notification of plan approval or deficiency; and provides sanctioning ability by Agency for Health Care Administration.

Section 10. Amends s. 400.925, F.S., providing the definition of life-supporting or life-sustaining equipment.

Section 11. Amends s. 400.934, F.S., regarding home medical equipment providers and the provision of services during an emergency; provides that home medical equipments providers may establish links to local emergency operations centers; establishes county health department procedures regarding review of home medical equipment providers comprehensive emergency plans; provides for notification of plan approval or deficiency; and provides that the Agency for Health Care Administration may impose a fine under certain circumstances.

Section 12. Amends s. 400.935, F.S., providing rules establishing minimum standards.

Section 13. Amends s. 408.831, F.S., regarding facility licensure and the provision of certain licensure and facility use pre and post disaster.

Section 14. Provides an appropriation based on a competitive award process to special needs shelters for permanent power generating capacity based on a competitive award process; requires 25 percent local match.

Section 15. Provides an appropriation for retrofitting public hurricane evacuation shelters based on a competitive award process.

Section 16. Provides an appropriation to the Department of Health for home health agencies' and nurse registry, hospice and home medical equipment providers' emergency management plan reviews.

Section 17. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

The bill provides appropriations for permanent emergency power for special needs shelters based on a competitive award process (\$21.5 million federal funds, which requires 25 percent local participation), retrofitting public hurricane evacuation shelters based on a competitive award process (\$9 million federal funds), and 20 positions and \$1,000,955 from the General Revenue Fund to the Department of Health for emergency management plan reviews of home health agencies and nurse registry, hospice and home medical equipment providers.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

The grant awards for permanent emergency power for special needs shelters require a 25 percent local cash match.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Reimbursement of health care practitioners and facilities is subject to the availability of state and federal funds.

D. FISCAL COMMENTS:

The Department of Community Affairs, the Department of Elder Affairs, and the Agency for Health Care Administration, should be able to carry out the provision of the bill within existing resources.

The Department of Health recommended 30 positions and \$1.5 million for the 2006-2007 fiscal year, and \$2.5 million (annualized) for the 2007-2008 fiscal year to conduct reviews of emergency management plans for home health agencies and nurse registry, hospice and home medical equipment providers. Based on a subsequent conversation with department staff, 20 positions and \$1 million would be sufficient as long as there were no due dates for the completion of the initial plan reviews.

	2006-2007	2007-2008
Salaries		
4 Hlth Svcs & Fac Consult @ \$44,330 (pg 024)	226,970	226,970
14 Hlth Svcs & Fac Consult w/ 50% lapse	397,197	794,394
2 Admin. Asst. III @ \$37,352 (pg 021) w/ 25% lapse	72,276	96,368
Subtotal Salaries	<u>696,443</u>	<u>1,117,732</u>
Expense		
18 FTE @ professional w/ travel @ \$10,177	182,106	182,106
18 FTE @\$3,343 NR	60,174	
2 FTE support @ \$5,195	10,390	10,390
2 FTE support @ \$2,791 NR	5,582	
Subtotal Expense	<u>258,252</u>	<u>192,496</u>
OCO		
18 FTE @ professional \$1,900	34,200	
2 FTE @ support \$2,100	4,200	
Subtotal OCO	<u>38,400</u>	
Human Resources Services		
20 FTE @ \$393	<u>7,860</u>	<u>7,860</u>
Total Recurring	896,799	1,318,088
Total Nonrecurring	104,156	
General Revenue Fund Total	<u>1,000,955</u>	<u>1,318,088</u>

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Although the grant awards for permanent emergency power for special needs shelters require a 25 percent local cash match, the grants are awarded on a competitive basis. Local governments are not required to apply for the grants.

2. Other:

None

B. RULE-MAKING AUTHORITY:

The Department of Health is required to promulgate rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 17, 2006, the Health Care Appropriations Committee adopted two amendments, and favorably reported the committee substitute. The two amendments add the following:

- Restores the subject to the availability of both state and federal funds language for the reimbursement to health care practitioners and facilities.
- Provides appropriations for permanent emergency power for special needs shelters based on a competitive award process (\$21.5 million federal funds, which requires 25 percent local participation), retrofitting public hurricane evacuation shelters based on a competitive award process (\$9 million federal funds), and 20 positions and \$1,000,955 from the General Revenue Fund to the Department of Health for emergency management plan reviews of home health agencies and nurse registry, hospice and home medical equipment providers.

The analysis reflects the bill as amended.

On February 22, 2006, the House Health Care General Committee passed Proposed Committee Bill HCG 06-01 and adopted two amendments:

Amendment #1: A strike-all amendment which included the provisions contained within the PCB and the following revisions:

- Increase special needs registration notification requirements;
- Require the Division of Emergency Management to address evacuation of persons with pets in the shelter component of the state emergency management plan;
- Require the Department of Agriculture and Consumer Services to assist the division of Emergency Management in determining strategies regarding persons evacuating with pets;
- Require the Division of Emergency Management to inspect facilities to determine availability, readiness and adequacy of facilities;
- Assign responsibility for the designation, operation and infrastructure of special needs shelters requires local health departments to coordinate efforts regarding same;
- Add the Florida Renal Coalition to the membership of the Special Needs Interagency Committee;
- Increase coordination among entities regarding home health agency, nurse registry, hospice and home medical equipment comprehensive plan reviews by local health departments.

Amendment #2:

- Provide access to special needs registration information to local law enforcement agencies.